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From:

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Cc:

Subject: RE: Informal Request for advice

Under section 6227 the tax matters partner (TMP) of a TEFRA partnership may file an Administrative Adjustment Request on behalf of the partnership. I.R.C. 6227(c).

Alternatively, any partner can file an AAR on his own behalf. I.R.C. 6227(d).

REMICs are subject to the TEFRA partnership procedures under section 860F(e). That section provides that the residual interest holders shall be treated as partners. A REMIC does not have a traditional "general partner" who could be designated as TMP under section 6231(a)(7). Consequently, Treas. Reg. 1.860F-4(d) provides that all residual interest holders are treated as general partners for TMP designation purposes.

Only a properly designated TMP may file an AAR on behalf of the partnership even if that person was not authorized to file the original return under Treas. Reg. 1.860F-4(c). This tracks similar rules that apply to LLC's under Treas. Reg. 301.6231(a)(7)-2.

A TEFRA proceeding or TMP level AAR is analogous to a class action of the partners with the TMP being the fiduciary for the class. So it is appropriate to have the REMIC TMP file a partnership-level AAR even if he had no authority to sign the original partnership return.